

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT AT ROANOKE, VA FILED
NOV 04 2005
JOHN F. CORCORAN, CLERK BY:  DEPUTY CLERK

TYRONE SHELTON,
Plaintiff,

v.

GENE M. JOHNSON, et al.,
Defendant(s).

) Civil Action No. 7:05-cv-00630

DISMISSAL ORDER

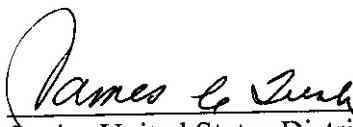
) By: Hon. James C. Turk
Senior United States District Judge

Plaintiff Tyrone Shelton executed his complaint in this civil action against prison officials on October 3, 2005. The court conditionally filed the complaint, asking Shelton to submit a verified statement and documentation demonstrating that he had exhausted administrative remedies before filing the lawsuit. He now moves for an extension of time to comply with this order. It is clear from his current submissions that he had not received the response on the final level of administrative appeals at the time he filed the complaint; in fact, he states that he will not receive that final response until sometime in mid-November 2005. As exhaustion is clearly a prefiling requirement, pursuant to 42 U.S.C. § 1997e(a), see Anderson v. XYZ Correctional Health Services, 407 F.3d 674, 682-83 (4th Cir. 2005), it is hereby

ORDERED

that plaintiff's motion for extension of time is hereby **DENIED** and this action is hereby **DISMISSED** without prejudice, pursuant to 42 U.S.C. § 1997e(a), for failure to exhaust administrative remedies before filing the lawsuit and the action is hereby stricken from the active docket of the court.

ENTER: This 4th day of November, 2005.



Senior United States District Judge